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Attorneys for Plaintiffs and the Putative Classes

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JACOB WINKELVOSS, SETH
PURVIN, DOUGLAS BUTTS and
ADITYA GUPTA individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

HYUNDAI MOTOR AMERICA and
VERISK ANALYTICS, INC.,

Defendants.

Case No.:

CLASS ACTION COMPLAINT

- 1) Violations of New York General Business Law
- 2) Violations of the Illinois Consumer Fraud and Deceptive Business Practices Act
- 3) Violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law
- 4) Intrusion Upon Seclusion
- 5) Unjust Enrichment
- 6) Violation of the Fair Credit Reporting Act

JURY TRIAL DEMANDED

1 Plaintiffs Jacob Winkelvoss, Seth Purvin, Douglass Butts, and Aditya Gupta
2 (collectively, “Plaintiffs”), individually and on behalf of all others similarly situated, upon
3 personal knowledge of facts pertaining to them and on information and belief as to all other
4 matters, by and through undersigned counsel, hereby bring this Class Action Complaint
5 against Defendants Hyundai Motor America (“Hyundai”) and Verisk Analytics, Inc.
6 (“Verisk” and, collectively with Hyundai, “Defendants”).

7 **NATURE OF THE ACTION**

8 1. Plaintiffs bring this action on behalf of themselves and on behalf of all
9 similarly situated persons (“Class Members”) in the United States who purchased or leased
10 a vehicle from Hyundai and had their location data provided to Verisk.

11 2. This action is brought to remedy violations of law in connection with
12 Defendants’ unlawful collection and dissemination of Plaintiffs’ and Class Members’
13 vehicle driving data through the telematics system in their vehicles. The allegations herein
14 are based on personal knowledge as to Plaintiffs’ own experiences and are made as to other
15 matters based on an investigation by counsel, including analysis of publicly available
16 information.

17 **JURISDICTION AND VENUE**

18 3. The Court has subject matter jurisdiction over Plaintiffs’ claims pursuant to
19 28 U.S.C. § 1332(d), because this matter was brought as a class action under Fed. R. Civ.
20 P. 23, at least one proposed Class Member is of diverse citizenship from Defendants, the
21 proposed Class includes more than 100 members, and the aggregate amount in controversy
22 exceeds five million dollars (\$5,000,000), excluding interest and costs.

23 4. The Court also has federal question jurisdiction over Plaintiffs’ claims under
24 the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681 *et seq.*

25 5. The Court has personal jurisdiction over Defendants and venue is proper
26 pursuant to 28 U.S.C. § 1391, because a substantial part of the events and omissions giving
27 rise to Plaintiffs’ claims occurred within this District. Defendant Hyundai has a principal
28 place of business in this District and has marketed, advertised, sold, and leased vehicles

1 within this District. Plaintiffs are informed and believe that Defendant Verisk marketed,
2 advertised, and sold its services within this District.

3 **PARTIES**

4 6. **Plaintiff Jacob Winkelvoss** is an adult resident and citizen of Pennsylvania.
5 In or around November 2023, Plaintiff Winkelvoss purchased a new 2023 Hyundai Elantra
6 from Pacifico Hyundai, an authorized Hyundai dealership in Philadelphia, Pennsylvania.
7 At the time of purchase, Plaintiff Winkelvoss was enrolled in Hyundai's connected service,
8 Bluelink, for the complimentary period. At no time was he appropriately alerted to the fact
9 that Hyundai would collect and share his vehicle driving data through the Bluelink service.

10 7. Plaintiff Winkelvoss is informed and believes that his data, including location
11 data, was provided to third parties, including, but not limited to, his auto insurance
12 provider. This has led Plaintiff Winkelvoss to pay more than he otherwise would have for
13 his auto insurance.

14 8. **Plaintiff Seth Purvin** is an adult resident and citizen of New York. Plaintiff
15 Purvin purchased a new 2022 Hyundai Ioniq 5 from Millenium Hyundai, an authorized
16 Hyundai dealership in New York. At the time of purchase, Plaintiff Purvin was enrolled
17 in Hyundai's connected service, Bluelink, for the complimentary period. At no time was
18 he appropriately alerted to the fact that Hyundai would collect and share his vehicle driving
19 data through the Bluelink service.

20 9. Plaintiff Purvin is informed and believes that his data, including location data,
21 was provided to third parties, including, but not limited to, his auto insurance provider.
22 This has led Plaintiff Purvin to pay more than he otherwise would have for his auto
23 insurance.

24 10. **Plaintiff Douglass Butts** is an adult resident and citizen of Illinois. Plaintiff
25 Butts purchased a new 2021 Hyundai Tucson in or around May 2021 and a new 2022
26 Hyundai Tucson in or around February 2022 from Schimmer Hyundai, an authorized
27 Hyundai dealership in Peru, Illinois. At the time of each purchase, Plaintiff Butts was
28 enrolled in Hyundai's connected service, Bluelink, for the complimentary period. At no

1 time was he appropriately alerted to the fact that Hyundai would collect and share his
2 vehicle driving data through the Bluelink service.

3 11. Plaintiff Butts is informed and believes that his data, including location data,
4 was provided to third parties, including, but not limited to, his auto insurance provider.
5 This has led Plaintiff Butts to pay more than he otherwise would have for his auto
6 insurance.

7 12. **Plaintiff Aditya Gupta** is an adult resident and citizen of New Jersey.
8 Plaintiff Gupta purchased a new 2022 Hyundai Elantra Sel 5 from Millenium Hyundai, an
9 authorized Hyundai dealership in New York. At the time of purchase, Plaintiff Gupta was
10 enrolled in Hyundai's connected service, Bluelink, for the complimentary period. At no
11 time was he appropriately alerted to the fact that Hyundai would collect and share his
12 vehicle driving data through the Bluelink service.

13 13. Plaintiff Gupta is informed and believes that his data, including location data,
14 was provided to third parties, including, but not limited to, his auto insurance provider.
15 This has led Plaintiff Gupta to pay more than he otherwise would have for his auto
16 insurance.

17 14. Furthermore, Plaintiff Gupta has repeatedly been denied coverage by other
18 insurers when he wanted to change his insurance provider. Plaintiff Gupta is not aware of
19 any reason other than the vehicle driving data that may have been provided to insurers that
20 would justify the denial of coverage from insurers.

21 15. **Defendant Hyundai Motor America, Inc.** is a corporation headquartered in
22 Fountain Valley, California, and incorporated under the laws of California. Hyundai is a
23 wholly owned subsidiary of the Hyundai Motor Company, a multinational automotive
24 manufacturer based in South Korea. Hyundai is responsible for sales, marketing, service,
25 distribution, import, and export of Hyundai-branded products, including vehicles and parts,
26 in the United States. Hyundai is also the warrantor and distributor of Hyundai vehicles
27 throughout the United States.

1 as LexisNexis and Verisk.³ The *New York Times* further explained that a number of car
2 manufacturers have started offering optional features in their connected-car apps that rate
3 people's driving. Drivers likely do not realize that, if they turn on these features, the car
4 companies then give information about how they drive to data brokers like LexisNexis and
5 Verisk. These data brokers in turn create "consumer disclosure reports" on individuals,
6 which they sell to insurance companies providing insurance to those individuals. The
7 consumer disclosure reports show the length of trips and driving behavior, such as "hard
8 braking," "hard accelerating" and speeding. Insurance companies can use those reports to
9 assess the risk of a current or potential customer, and adjust rates or refuse coverage based
10 on the findings.

11 20. For example, Hyundai's Bluelink provides features such as remote start
12 capabilities, diagnostics and alerts, and emergency assistance in addition to feedback based
13 on driving behavior. Kia, Mitsubishi, General Motors, and both Honda and its Acura luxury
14 arm all offer similar driver coaching systems as well. All of these programs collect
15 information about a driver's mileage, speed, braking, and acceleration, which are then
16 shared with LexisNexis or Verisk.

17 21. The *New York Times* highlighted the case of Kenn Dahl, the driver of a leased
18 Chevrolet Bolt, who learned that he and his wife's driving habits were being tracked when
19 an insurance agent told him in 2022 that his LexisNexis report was a factor behind his
20 insurance premium jumping by 21%. While many automakers and data brokers claim that
21 they do not collect information without vehicle owner's consent, the manner in which
22 consent is obtained is often suspect. Consumers' consent, like Kenn Dahl's, is frequently
23 achieved by getting them to sign off on disclosures, with no specific explanation of the data
24 collection in the fine print.

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26
27 ³ Kashmir Hill, *Automakers Are Sharing Consumers' Driving Behavior With Insurance Companies*,
28 N.Y. Times (Mar. 11, 2024), available at <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>.

1 22. Following reports, Senator Ed Markey, a Democrat from Massachusetts, sent
2 letters to 14 automakers urging them to implement stronger privacy policies for consumers.
3 Last month, dissatisfied by automakers' evasive answers, Sen. Markey asked the Federal
4 Trade Commission (FTC) to investigate car manufacturers' data collection practices. Sen.
5 Markey wrote:

6 With new advances in vehicle technology and services, automakers have
7 been vacuuming up huge amounts of data on drivers, passengers, and even
8 individuals outside the vehicle. Based on public reporting and responses to
9 my own inquiries into these practices, automakers face few, if any,
10 limitations on the collection, use, and disclosure of this data. Consumers
are often left in the dark. I therefore urge the FTC to investigate the
automakers' data practices and take all necessary actions to protect the
privacy of all road users.

11 23. Sen. Markey continued to explain that in their responses, the automakers
12 largely failed to answer important questions about whether they use the data for their own
13 commercial benefit, whether a consumer loses functionality by refusing to consent to the
14 data collection, and whether the manufacturers have suffered a cyberattack in recent
15 months. In addition, 12 of the 14 automakers wrote that they provide data to law
16 enforcement, with most doing so only in response to a subpoena, warrant, or other legal
17 order.

18 ***Hyundai Sends Location Data to Verisk***

19 24. Through Bluelink, Hyundai provides subscription-based communications, in-
20 vehicle security, emergency services, turn-by-turn navigation, and remote diagnostics
21 mechanisms utilizing vehicles' onboard telematics system.

22 25. Hyundai's Bluelink Driving Score program provides customers with
23 information about their driving behavior to help them maximize their vehicle's overall
24 performance, reduce vehicle wear and tear, and encourage safer driving. Hyundai promotes
25 this service by enrolling customers with Bluelink-enabled vehicles in its Driving Score
26 program. Bluelink Connected Car Service is complimentary for a limited time as part of
27 every new vehicle purchase.

1 26. Hyundai described the program as “a Bluelink feature conceived and launched
2 to help customers better understand their driving habits, similar to fitness tracking on a
3 smartwatch. Customers were able to share their driving data with third parties to generate
4 the Drive Score and driving coaching tips.”⁴

5 27. Customers can enroll in Bluelink at the time of vehicle purchase through their
6 dealer, or at a later date, using either their MyHyundai mobile app, or by visiting the
7 following website: <https://owners.hyundaiusa.com/us/en/index>.

8 28. Hyundai provides a webpage of answers to frequently asked questions,
9 including information on how they treat the consumer data that their system collects. For
10 example, as of May 22, 2024, Hyundai has posted and answered the following questions⁵:

11
12 **What Hyundai vehicles are equipped with Bluelink? ^**

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14 Bluelink launched on the 2012 Sonata and is currently available on most 2013 and newer
15 Hyundai models. Vehicles later than 2013 that are *not* equipped with Bluelink include 2013
16 - 2017 Accent, 2013 Elantra sedan and 2013 Tucson.

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27 ⁴ <https://owners.hyundaiusa.com/us/en/resources/blue-link/what-is-a-hyundai-driving-score>
(last accessed May 23, 2024).

28 ⁵ <https://www.hyundaiusa.com/us/en/blue-link> (last accessed May 23, 2024).

Where can I get the Bluelink app? ^

Bluelink features can be accessed within the MyHyundai app, which can be downloaded directly from the [Apple App store](#)* and [Google Play](#)* on your mobile device.

How does Enhanced Roadside Assistance work? ^

Enhanced Roadside Assistance works in conjunction with your vehicle's Hyundai Assurance 24/7 Roadside Assistance coverage. GPS coordinates for your vehicle will be provided to the Bluelink Customer Care agent when making a Roadside Assistance call from inside the vehicle using the Bluelink button.

How does Stolen Vehicle Recovery work with local police to recover my vehicle? ^

If your Hyundai vehicle is stolen, file a stolen vehicle report with your local police department immediately. The Bluelink Customer Care agent will need a report number to help police find the location of your vehicle.

How do I sign up for Bluelink? ^

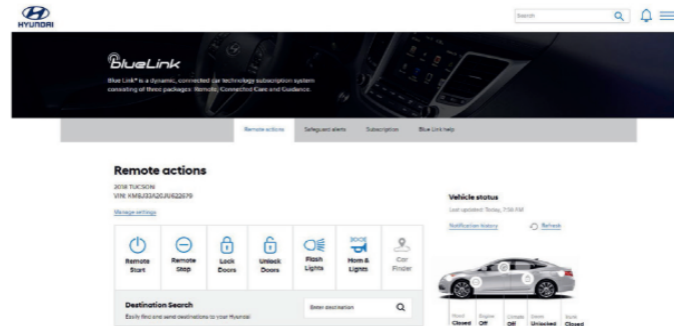
To sign up for Bluelink, create a MyHyundai account or log in to your existing MyHyundai account.

1. Go to owners.hyundaiusa.com and click REGISTER if you need to create an account.
2. Follow the quick and easy steps on the screen to set up your account. You will need your Vehicle Identification Number (VIN) to complete enrollment.
3. Use the account you created to sign in to the MyHyundai with Bluelink app or manage your account on MyHyundai.com.

29. Hyundai has also published an extensive User's Manual for its Bluelink services. The User's Manual contains no references to Bluelink's collection or dissemination of driving data or how customers can opt out of driving data collection.⁶

Setting Bluelink Preferences and alerts

1. To get started with Bluelink, log on to www.MyHyundai.com and select Bluelink from side menu.



Bluelink Home page

2. Selecting Preferences and Alerts

This is where the rubber hits the road - where you are able to select, activate, adjust and control the settings for the Bluelink system in your Hyundai. Explore everything! You might be surprised at how easy to use - and practical - many of these amazing features are:

- Add Secondary Drivers
- Add Emergency Contacts
- Update Bluelink PIN
- Set Notifications
- View Monthly Vehicle Health Report
- Activate Remote Features
- Destination Search by Voice
- Geo-Fence*
- Speed Alert*
- Curfew Alert*

⁶ <https://owners.hyundaiusa.com/content/dam/hyundai/us/myhyundai/manuals/factory-warranty/2022/Bluelink-User-Manual.pdf> (last accessed May 23, 2024).

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2 30. Nowhere in these frequently asked questions or Bluelink User's Manual did
3 Hyundai reveal that it was providing extensive consumer data to Verisk, who was in turn
4 sending it to auto insurers.

5 31. Verisk boasts that its data platform for insurers, the Verisk Data Exchange,
6 "works with numerous automotive and property-based data sources, applying artificial
7 intelligence and advanced analytics to generate insights that enable superior decision-
8 making across the life cycle of insurers' telematics programs. With over 7.6 million
9 vehicles and 240 billion miles of driving data, the Exchange is one of the largest of its kind
10 and continues to grow by over 200,000 new vehicles every month."⁷

11 32. A Verisk press release from 2018 announcing the partnership between
12 Hyundai and Verisk offers insight to the vehicle driving data collection and dissemination
13 scheme: "Hyundai owners and lessees will gain access to their Verisk Driving ScoreTM, a
14 simple metric that assesses individual driving behavior. Insurers can use scores from the
15 Verisk Data Exchange to support usage-based insurance (UBI) programs through a related
16 rating rule"⁸ Manish Mehrotra, director of digital business planning and connected
17 operations at Hyundai Motor America, stated that "Hyundai customers will have access to
18 their portable Verisk Driving Score, which can lead to discount offers on UBI programs
19 and support driver feedback that helps improve their driving."⁹ In 2018, the Verisk Data
20 Exchange received driving data from 32 percent of the total U.S. market share of
21 automakers.¹⁰

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24 _____
25 ⁷ [https://www.hyundainews.com/assets/documents/original/45429-](https://www.hyundainews.com/assets/documents/original/45429-HMAUBIPressRelease3222021AVwithdisclaimersnrabmj.pdf)
HMAUBIPressRelease3222021AVwithdisclaimersnrabmj.pdf (last accessed May 23, 2024).

26 ⁸ <https://www.verisk.com/company/newsroom/hyundai-joins-the-verisk-data-exchange/>
(last accessed May 23, 2024).

27 ⁹ *Id.*

28 ¹⁰ *Id.*

1 33. One reason insurers benefit from gathering telematics information is the
2 recent increase in insurance costs. A recent analysis by the U.S. Bureau of Labor Statistics
3 found insurance costs have risen 71% in the last decade and 18% in just the first half of
4 last year. Higher repair costs are partly to blame. Today's cars are complex devices full of
5 expensive electronics, often in vulnerable places. Parking sensors, blind-spot monitors, and
6 automatic emergency braking systems all require sensors placed on the exterior of a car.
7 Even a minor accident can require replacing thousands of dollars' worth of electronics.

8 34. As a result of Defendants' misconduct, Plaintiffs and the other Class Members
9 were each injured on account of their vehicle location being shared with third parties,
10 including, but not limited to, the insurance companies that provide them insurance and/or
11 other insurance companies where Plaintiffs and the other Class Members applied for
12 insurance. Accordingly, the vehicles purchased by Plaintiffs and the other Class Members
13 were fundamentally different from what they believed they were purchasing, less valuable
14 than was represented, and less valuable than what they actually received.

15 35. To date, Plaintiffs' and Class Members' data is still in the possession of
16 Defendants and unknown third parties. As such, and without the benefit of discovery, it is
17 for all practical purposes impossible to know at this time whether a remedy at law or in
18 equity will provide the appropriate full relief for Plaintiffs and the other Class Members.
19 As a result, Plaintiffs, at this stage of the litigation, seek both restitution and a remedy at
20 law, where the claims so permit. Further, Plaintiffs seek an injunction enjoining Defendants
21 and their agents, servants, and employees, and all persons acting under, in concert with, or
22 for them, from selling or otherwise disseminating Plaintiffs' and Class Members' data, and
23 requiring that data's destruction.

24 **TOLLING OF STATUTES OF LIMITATIONS**

25 36. Defendants had exclusive knowledge of their activity to collect and utilize
26 Plaintiffs' and Class Members' data and knew their activity would not be discovered by
27 Plaintiffs and Class Members.
28

1 37. Thus, any applicable statute of limitations has been tolled by Defendants'
2 actions and Defendants are estopped from pleading the statute of limitations because they
3 failed to disclose the facts they were obligated to disclose concerning their activity.

4 **CLASS ALLEGATIONS**

5 38. All Plaintiffs seek certification, under Fed. R. Civ. P. 23(a)(b)(2), and (b)(3),
6 of the following class "Nationwide Class":

7 **Nationwide Class**

8 All persons and entities in the United States whose vehicle
9 driving data was collected, stored, distributed, and/or sold by
10 Defendants.

11 39. In the alternative to the Nationwide Class, Plaintiff Winkelvoss seeks
12 certification of the following "Pennsylvania Class":

13 **Pennsylvania Class**

14 All persons and entities in the Commonwealth of Pennsylvania
15 whose vehicle driving data was collected, stored, distributed,
16 and/or sold by Defendants.

17 40. In the alternative to the Nationwide Class, Plaintiffs Purvin and Gupta seek
18 certification of the following "New York Class":

19 **New York Class**

20 All persons and entities in the State of New York whose vehicle
21 driving data was collected, stored, distributed, and/or sold by
22 Defendants.

23 41. In the alternative to the Nationwide Class, Plaintiff Butts seeks certification
24 of the following "Illinois Class":

25 **Illinois Class**

26 All persons and entities in the State of Illinois whose vehicle
27 driving data was collected, stored, distributed, and/or sold by
28 Defendants.

1 42. All Plaintiffs also seek certification of the following, nationwide “FCRA
2 Class”:

3 **FCRA Class**

4 All persons and entities in the United States whose vehicle
5 driving data was included in consumer reports created and/or
6 disseminated by Defendant Verisk.

7 43. The Nationwide Class, Pennsylvania Class, New York Class, Illinois Class,
8 and FCRA Class are referred to collectively as the “Classes” or “Class.”

9 44. Excluded from the Classes are: (i) Defendants and their officers and directors,
10 agents, affiliates, subsidiaries, authorized distributors and dealers, (ii) all Class Members
11 who timely and validly request exclusion from the Class, and (iii) the Judge presiding over
12 this action.

13 45. Certification of Plaintiffs’ claims for class-wide treatment is appropriate
14 because Plaintiffs can prove the elements of their claims on a class-wide basis using the
15 same evidence as would be used to prove those elements in individual actions alleging the
16 same claims.

17 46. **Numerosity:** The members of the Class are so numerous that joinder of all
18 Class Members in a single proceeding would be impracticable. While the exact number
19 and identities of individual members of the Class are unknown at this time, such
20 information being in the sole possession of Defendants and obtainable by Plaintiffs only
21 through the discovery process, Plaintiffs believe, and on that basis allege, that tens of
22 thousands of vehicle owners have had their location data collected, stored, distributed,
23 and/or sold by Defendants.

24 47. **Existence/Predominance of Common Questions of Fact and Law:**
25 Common questions of law and fact exist as to all Class Members and predominate over
26 questions affecting only individual Class Members. Such common questions of law or fact
27 include, *inter alia*:
28

- a. whether Defendants engaged in the conduct alleged herein;
- b. whether Defendants omitted and misrepresented material facts to purchasers and lessees of vehicles;
- c. whether Defendants' omissions and misrepresentations regarding the vehicles were likely to mislead a reasonable consumer;
- d. whether Plaintiffs' and the other Class Members' vehicles were worth less than as represented as a result of the conduct alleged herein;
- e. whether Plaintiffs and other Class Members have been damaged and, if so, the extent of such damages;
- f. whether Defendant Verisk's actions constitute a violation of the FCRA; and
- g. whether Plaintiffs and other Class Members are entitled to equitable relief, including, but not limited to, restitution and injunctive relief.

48. Defendants engaged in a common course of conduct giving rise to the legal rights sought to be enforced by Plaintiffs individually and on behalf of the other Class Members. Similar or identical statutory and common law violations, business practices, and injuries are involved. Individual questions, if any, pale by comparison, in both quality and quantity, to the numerous common questions that dominate this action.

49. **Typicality:** Plaintiffs' claims are typical of the claims of the other Class Members because, among other things, Plaintiffs and the other Class Members were injured through the substantially uniform misconduct described above. Like Plaintiffs, Class Members also purchased or leased a vehicle that collected, stored, distributed, and/or sold data about the vehicle to third parties. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all other Class Members, and no defense is available to Defendants that is unique to any Plaintiff. The same events giving rise to Plaintiffs' claims for relief are identical to those giving rise to the claims of all Class Members. Plaintiffs and all Class Members sustained monetary and economic injuries including, but not limited to, ascertainable losses arising out of Defendants' wrongful conduct in collecting, storing, distributing, and/or selling their location data.

1 50. **Adequacy**: Plaintiffs are adequate Class representatives because they will
2 fairly represent the interests of the Class. Plaintiffs have retained counsel with substantial
3 experience in prosecuting consumer class actions, including consumer fraud and privacy
4 class action cases. Plaintiffs and their counsel are committed to prosecuting this action
5 vigorously on behalf of the Class they represent and have the resources to do so. Neither
6 Plaintiffs nor their counsel have interests adverse or antagonistic to those of the Class.

7 51. **Superiority**: A class action is superior to any other available means for the
8 fair and efficient adjudication of this controversy, and no unusual difficulties are likely to
9 be encountered in the management of this class action. The damages or other detriment
10 suffered by Plaintiffs and the other Class Members are relatively small compared to the
11 burden and expense that would be required to individually litigate their claims against
12 Defendants, so it would be impracticable for Class Members to individually seek redress
13 for Defendants' wrongful conduct. Even if Class Members could afford individual
14 litigation, the court system should not be required to undertake such an unnecessary burden.
15 Individualized litigation would also create a potential for inconsistent or contradictory
16 judgments and increase the delay and expense to all parties and the court system. By
17 contrast, the class action device presents far fewer management difficulties and provides
18 the benefits of single adjudication, economy of scale, and comprehensive supervision by a
19 single court.

20 52. Upon information and belief, members of the Class can be readily identified
21 and notified based upon, *inter alia*, the records (including databases, e-mails, dealership
22 records and files, etc.) Defendants maintain regarding Plaintiffs' and the Class Members'
23 vehicles and location data.

CAUSES OF ACTION

COUNT I

Violations of New York General Business Law

N.Y. Gen. Bus. Law § 349 (“GBL”)

(On Behalf of Plaintiffs Purvin and Gupta and the New York Class)

53. Plaintiffs Purvin and Gupta (“Plaintiffs” for the purposes of this count) reallege and incorporate all previous allegations as though fully set forth herein.

54. Plaintiffs bring this cause of action individually and on behalf of the New York Class (the “Class” for the purposes of this count).

55. Section 349 of the New York GBL provides that “[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful.” N.Y. Gen. Bus. Law § 349(a).

56. Defendants, while operating in New York, engaged in deceptive acts and practices in the conduct of business, trade and commerce, and the furnishing of services, in violation of N.Y. Gen. Bus. Law § 349(a). This includes but is not limited to the following:

- i. collecting and disseminating Plaintiffs’ and Class Members’ vehicle driving data, including location data;
- ii. failing to enact proper opt-in procedures before collecting and disseminating Plaintiffs’ and Class Members’ vehicle driving data, including location data;
- iii. knowingly and fraudulently providing Plaintiffs’ and Class Members’ driver’s license information directly to members of the public with small amounts of their PI;
- iv. omitting, suppressing, and concealing the data collection and dissemination practices of Defendants; and

1 v. knowingly and fraudulently misrepresenting that Defendants would
2 comply with the requirements of relevant federal and state laws
3 pertaining to the privacy Plaintiffs' and Class Members' vehicle
4 driving data, including location data.

5 57. As a direct and proximate result of Defendants' data collection and
6 dissemination practices, Plaintiffs and other Class Members suffered injury and/or
7 damages, including, but not limited to, actual misuse of their vehicle driving data,
8 including location data; production and dissemination of uncontextualized, misleading,
9 and personal driving information in the consumer reports disseminated; and increased
10 insurance premiums and/or denials of coverage.

11 58. The above unfair and deceptive practices and acts by Defendants were
12 immoral, unethical, oppressive, and unscrupulous. These acts caused substantial injury to
13 Plaintiffs and other Class Members that they could not reasonably avoid, and which
14 outweighed any benefits to consumers or to competition.

15 59. In view of their decision to collect and disseminate vehicle driving data,
16 including location data, Defendants knew or should have known that their practices were
17 negligent, knowing and willful.

18 60. Plaintiffs and Class Members seek relief under N.Y. Gen. Bus. Law §
19 349(h), including but not limited to actual damages (to be proven at trial), treble damages,
20 statutory damages, injunctive relief, and/or attorney's fees and costs.

21 61. Plaintiffs and Class Members seek to enjoin such unlawful deceptive acts
22 and practices described above. Each Class Member will be irreparably harmed unless the
23 Court enjoins Defendants' unlawful, deceptive actions, in that Defendants will continue
24 to collect, store, disseminate, and/or sell Plaintiffs' and Class Members' vehicle driving
25 data, including location data, as detailed herein.

62. Plaintiffs and Class Members seek declaratory relief, restitution for monies wrongfully obtained, disgorgement of ill-gotten revenues and/or profits, injunctive relief prohibiting Defendants from continuing to disseminate its false and misleading statements, and other relief allowable under N.Y. Gen. Bus. Law § 349.

COUNT II
Violations of the Illinois Consumer Fraud and
Deceptive Business Practices Act (“ICFA”)
815 Ill. Comp. Stat. § 505/1, et seq.
(On Behalf Plaintiff Butts and the Illinois Class)

63. Plaintiff Butts (“Plaintiff” for the purposes of this count) re-alleges and incorporates by reference all other paragraphs of this complaint as though fully set forth herein and bring this claim on behalf of himself and the Illinois Class (the “Class for the purposes of this count)

64. Plaintiff and the Class are “consumers” as defined in 815 Ill. Comp. Stat. § 505/1(e). Plaintiff, the Class, and Defendants are “persons” as defined in 815 Ill. Comp. Stat. § 505/1(c).

65. Defendants engaged in “trade” or “commerce,” including the provision of services, as defined under 815 Ill. Comp. Stat. § 505/1(f). Defendants engage in the sale of “merchandise” (including services) as defined by 815 Ill. Comp. Stat. § 505/1(b) and (d).

66. Plaintiff may bring claims under the ICFA because there is a “consumer nexus” between Plaintiff and consumers with respect to Defendants’ unfair and deceptive trade practices.

67. Plaintiff’s actions were akin to a consumer’s action because he justifiably relied on Defendants’ public statements and omissions regarding their privacy practices. Specifically, Defendants’ statements omitted any representation concerning their collection, storage, dissemination, and/or sale of Plaintiff’s and Class Members’ vehicle driving data.

1 68. Defendants' representations and omissions as to their data collection and
2 dissemination practices concern all individuals because a reasonable consumer, akin to
3 Plaintiff, does or is reasonably likely to rely on these statements in purchasing
4 Defendants' goods or services.

5 69. Defendants' conduct involved consumer protection concerns because
6 Defendants omitted any representation to consumers that Plaintiff's and Class Members'
7 vehicles collected and disseminated driving data to third parties.

8 70. Defendants engaged in deceptive and unfair acts and practices,
9 misrepresentation, and the concealment and omission of material facts in connection with
10 the sale and advertisement of their goods and services in violation of the ICFA, including:

- 11 i. collecting and disseminating Plaintiff's and Class Members' vehicle
12 driving data, including location data;
- 13 ii. failing to enact proper opt-in procedures before collecting and
14 disseminating Plaintiff's and Class Members' vehicle driving data,
15 including location data;
- 16 iii. omitting, suppressing, and concealing the data collection and
17 dissemination practices of Defendants; and
- 18 iv. knowingly and fraudulently misrepresenting that Defendants would
19 comply with the requirements of relevant federal and state laws
20 pertaining to the privacy Plaintiff's and Class Members' vehicle
21 driving data, including location data.

22 71. These actions also constitute deceptive and unfair acts or practices because
23 Defendants knew the facts about their data collection and dissemination practices.
24 Defendants' failure to comply with applicable state and federal laws and industry
25 standards would be unknown to (and not easily discoverable by) Plaintiff and the Class,
26 and would defeat their reasonable expectations about the privacy of their vehicle driving
27 information, including location data.

72. Defendants intended that Plaintiff and the Class rely on their deceptive and unfair acts and practices and the concealment and omission of material facts in connection with Defendants' offering of goods and services.

73. Defendants' wrongful practices were and are injurious to the public because those practices were part of Defendants' generalized course of conduct that applied to the Class. Plaintiff and the Class have been adversely affected by Defendants' conduct and the public was and is at risk as a result thereof.

74. As a result of Defendants' wrongful conduct, Plaintiff and the Class were injured in that they never would have purchased or used Defendants' goods and/or services, had they known or been made aware that Defendants collected and disseminated their vehicle driving data to third parties.

75. As a direct and proximate result of Defendants' violations of the ICFA, Plaintiff and the Class have suffered harm as set forth in detail above.

76. The requested relief by Plaintiff will assist consumers because it will require Defendants to cease their illegal data collection and dissemination practices. To that extent, the Complaint seeks injunctive relief and any monetary compensation that will deter Defendants from additional and future illegal data collection and dissemination practices.

COUNT III
Violations of the Pennsylvania Unfair Trade Practices
and Consumer Protection Law,
73 Pa. Cons. Stat. §§ 201-2 & 201-3, et seq.
(On Behalf Plaintiff Winkelvoss and the Pennsylvania Class)

77. Plaintiff Winkelvoss ("Plaintiff" for the purposes of this count) realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

78. This claim is brought on behalf of Plaintiff Winkelvoss and the Pennsylvania Class.

1 79. are "persons," as meant by 73 Pa. Cons. Stat. § 201-2(2).

2 80. Plaintiff and Pennsylvania Class Members purchased goods and services in
3 "trade" and "commerce," as meant by 73 Pa. Cons. Stat. § 201-2(3), primarily for
4 personal, family, and/or household purposes.

5 81. Defendants engaged in unfair methods of competition and unfair or
6 deceptive acts or practices in the conduct of their trade and commerce in violation of 73
7 Pa. Cons. Stat. Ann. § 201-3, including:

- 8 i. Representing that their goods and services have characteristics, uses,
9 benefits, and qualities that they do not have (73 Pa. Stat. Ann. § 201-
10 2(4)(v));
- 11 ii. Representing that their goods and services are of a particular
12 standard or quality if they are another (73 Pa. Stat. Ann. § 201-
13 2(4)(vii)); and
- 14 iii. Advertising their goods and services with intent not to sell them as
15 advertised (73 Pa. Stat. Ann. § 201-2(4)(ix)).

16 82. Defendants' unfair or deceptive acts and practices include:

- 17 i. Failing to adopt reasonable privacy practices to obtain informed
18 consent of Plaintiff and Pennsylvania Class Members before
19 collecting, storing, disseminating, and/or selling their vehicle driving
20 data;
- 21 ii. Failing to comply with common law and statutory duties pertaining to
22 the privacy of Plaintiff's and Pennsylvania Class Members' vehicle
23 driving data, including duties imposed by state consumer protection
24 laws, and the FCRA;
- 25 iii. Misrepresenting that it would protect the privacy and confidentiality
26 of Plaintiff's and Pennsylvania Class Members' vehicle driving data;
- 27 iv. Misrepresenting that it would comply with common law and statutory
28 duties pertaining to the privacy of Plaintiff's and Pennsylvania Class

1 Members' vehicle driving data, including duties imposed by state
2 consumer protection laws, and the FCRA;

3 v. Omitting, suppressing, and concealing the material fact that they
4 collected and disseminated Plaintiff's and Pennsylvania Class
5 Members' vehicle driving data; and

6 vi. Omitting, suppressing, and concealing the material fact that they did
7 not comply with common law and statutory duties pertaining to the
8 privacy of Plaintiff and Pennsylvania Class Members' vehicle driving
9 data, including duties imposed by state consumer protection laws, and
10 the FCRA.

11 83. Defendants' representations and omissions were material because they were
12 likely to deceive reasonable consumers about the data collection and dissemination
13 capabilities of their vehicles.

14 84. Defendants intended to mislead Plaintiff and Pennsylvania Class Members
15 and induce them to rely on their misrepresentations and omissions.

16 85. Had Defendants disclosed to Plaintiff and Pennsylvania Class Members
17 that their vehicles would collect and disseminate their driving data to third parties, they
18 would not have purchased or leased their vehicles or would not have used Defendants'
19 services. Instead, Defendants never disclosed to Plaintiff and Pennsylvania Class
20 Members their data collection and dissemination practices. Accordingly, Plaintiff
21 and Pennsylvania Class Members acted reasonably in relying on Defendants'
22 misrepresentations and omissions, the truth of which they could not have discovered.

23 86. Defendants acted intentionally, knowingly, and maliciously to violate
24 Pennsylvania Unfair Trade Practices and Consumer Protection Law, and recklessly
25 disregarded Plaintiff's and Pennsylvania Class Members' rights.

26 87. As a direct and proximate result of Defendants' unfair methods of
27 competition and unfair or deceptive acts or practices and Plaintiff's and Pennsylvania
28 Class Members' reliance on them, Plaintiff and Pennsylvania Class Members have

suffered and will continue to suffer injury and actual harm in the form of, *inter alia*: (a) the collection, storage, dissemination, and/or unauthorized sale of their vehicle driving data, including location data; (b) the lease or purchase of vehicles that are fundamentally different from what they believed they were purchasing, less valuable than was represented, and less valuable than what they actually received; and (c) the continued storage and dissemination of their vehicle driving data, including location data.

88. Plaintiff and Pennsylvania Class Members seek all monetary and non-monetary relief allowed by law, including actual damages or statutory damages of \$100 (whichever is greater), treble damages, restitution, attorneys' fees and costs, and any additional relief the Court deems necessary or proper.

COUNT IV
Intrusion Upon Seclusion
(On Behalf of All Plaintiffs and the Nationwide Class Against All Defendants)

89. Plaintiffs repeat and reallege all preceding paragraphs contained herein.

90. Plaintiffs and Class Members have reasonable expectations of privacy in their vehicles and with their movements, generally. Plaintiffs' and Class Members' private affairs include their locations.

91. The reasonableness of such expectations of privacy is supported by Defendants' unique position to monitor Plaintiffs' and Class Members' behavior through their access to Plaintiffs' and Class Members' vehicles. It is further supported by the surreptitious and non-intuitive nature of Defendants' tracking practices.

92. Defendants intentionally intruded on and into Plaintiffs' and Class Members' solitude, seclusion, or private affairs by intentionally collecting and transmitting information via the systems in their vehicles.

93. These intrusions are highly offensive to a reasonable person.

94. Plaintiffs and Class Members were harmed by the intrusion into their private affairs as detailed throughout this Complaint.

95. Defendants' actions and conduct complained of herein were a substantial factor in causing the harm suffered by Plaintiffs and Class Members.

96. As a result of Defendants' actions, Plaintiffs and Class Members seek statutory damages and punitive damages in an amount to be determined at trial. Plaintiffs and Class Members seek punitive damages because Defendants' actions—which were malicious, oppressive, and willful—were calculated to injure Plaintiffs and Class Members and were made in conscious disregard of Plaintiffs' and Class Members' rights. Punitive damages are warranted to deter Defendants from engaging in future misconduct.

COUNT V

Unjust Enrichment (Quasi-Contract Claim for Restitution and Disgorgement) or, Alternatively, Breach of Contract (On Behalf of All Plaintiffs and the Nationwide Class Against All Defendants)

97. Plaintiffs repeat and reallege all preceding paragraphs contained herein.

98. Plaintiffs and Class Members unwittingly conferred a benefit upon Defendants.

99. Defendants took and retained valuable personal location information belonging to Plaintiffs and Class Members when they intentionally and comprehensively tracked their vehicle locations and driving behaviors without their consent.

100. Defendants were enriched when they utilized Plaintiffs' and Class Members' location information, gathered without consent, for their own financial advantage to sell in its raw form, or use to create reports or other analyses for sale, including, but not limited to, reports of Plaintiffs' and Class Members' driving behaviors for automobile insurers.

101. In exchange for Plaintiffs' and Class Members' loss of privacy and the financial benefits Defendants enjoyed as a result thereof, including, but not limited to, profits from the sale of the location data, and reports based on that location data, Plaintiffs and Class Members received nothing.

102. It would be inequitable for Defendants to retain the benefits they have unjustly received. Therefore, as a result of Defendants' actions, Plaintiffs and Class Members seek an order that Defendants disgorge the profits and other benefits they have unjustly obtained.

103. Alternatively, to the extent Defendants successfully assert that any terms of service form a binding contract that sufficiently defines the parties' rights regarding Defendants' use of Plaintiffs' and Class Members' location information, thereby rendering a claim for unjust enrichment unavailable (which Plaintiffs deny in the first instance), then Plaintiffs allege that Defendants' conduct constitutes a breach of any such binding contract, including, but not limited to, the covenant of good faith and fair dealing implied into every contract. Defendants did not adequately disclose prior to collecting or selling Plaintiffs' and Class Members' vehicle location data that it would or could be sold to automobile insurance companies with whom Plaintiffs and Class Members had an ongoing, or prospective relationship. By virtue of Defendants' conduct as alleged herein, including the sale of Plaintiffs' and Class Members' location information without adequate disclosure beforehand, Defendants breached the covenant of good faith and fair dealing implied into every contract, including any applicable terms of service.

COUNT VI
Violation of the Fair Credit Reporting Act
(On Behalf of All Plaintiffs and the FCRA Class against Defendant Verisk)

104. Plaintiffs repeat and reallege all preceding paragraphs contained herein.

105. Defendant Verisk is a “consumer reporting agency,” as defined in 15 U.S.C. § 1681a(f).

106. As alleged in more detail above, Defendant Verisk collected Plaintiffs' driving data and incorporated into consumer reports, as defined in 15 U.S.C. § 1681a(d), which it disseminated to insurance companies and financial institutions.

1 107. As a consumer reporting agency, Defendant Verisk is required to follow
2 reasonable procedures “to assure maximum possible accuracy of the information
3 concerning” individuals in consumer reports that it disseminates. 15 U.S.C. § 1681e(b).

4 108. Defendant Verisk failed to maintain procedures to maintain maximum
5 possible accuracy regarding Plaintiffs’ and FCRA Class Members’ driving data.

6 109. Upon information and belief, the uncontextualized, misleading, and personal
7 driving information in the consumer reports disseminated by Defendant Verisk harmed
8 Plaintiffs, including by significantly raising their insurance premiums and/or resulting in
9 the denial of coverage.

10 110. With certain exceptions not applicable here, under 15 U.S.C. § 1681b,
11 Defendant Verisk “may furnish a consumer report relating to any consumer . . . in
12 connection with any credit or insurance transaction that is not initiated by the consumer
13 only if . . . the consumer authorizes the agency to provide such reports to such person.”

14 111. Plaintiffs and FCRA Class Members did not authorize Defendant Verisk to
15 include driving data in consumer reports about them.

16 112. As a result of each and every willful violation of the FCRA, Plaintiffs are
17 entitled to actual damages as the Court may allow under 15 U.S.C. § 1681n(a)(1); statutory
18 damages under 15 U.S.C. § 1681n(a)(1); punitive damages as the Court may allow under
19 15 U.S.C. § 1681n(a)(2); and reasonable attorneys’ fees and costs under 15 U.S.C. §
20 1681n(a)(3).

21 113. As a result of each and every negligent violation of the FCRA, Plaintiffs are
22 entitled to actual damages as the Court may allow under 15 U.S.C. § 1681o(a)(1); and
23 reasonable attorneys’ fees and costs under 15 U.S.C. § 1681o(a)(2).

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that the Court enter judgment in their favor and against Defendants as follows:

- A. Certifying the Class under Federal Rule of Civil Procedure 23 as requested herein;
- B. Appointing Plaintiffs as Class Representatives and undersigned counsel as Class Counsel;
- C. Finding that Defendants engaged in the unlawful conduct as alleged herein;
- D. Awarding Plaintiffs and the other Class Members actual, compensatory, and consequential damages;
- E. Awarding Plaintiffs and the other Class Members statutory damages;
- F. Awarding Plaintiffs and the other Class Members declaratory and injunctive relief;
- G. Awarding Plaintiffs and the other Class Members restitution and disgorgement;
- H. Awarding Plaintiffs and the other Class Members exemplary damages, should the finder of fact determine that Defendants acted with malice or oppression;
- I. Awarding Plaintiffs and the other Class Members pre-judgment and post-judgment interest on all amounts awarded;
- J. Awarding Plaintiffs and the other Class Members reasonable attorneys' fees, costs, and expenses; and
- K. Granting such other relief as the Court deems just and appropriate.

JURY TRIAL DEMAND

Plaintiffs, individually and on behalf of all others similarly situated, hereby request a jury trial, pursuant to Federal Rule of Civil Procedure 38, on all claims so triable.

Dated: May 23, 2024

Respectfully submitted,

/s/ Tina Wolfson

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